

### **REMARKS**

By this amendment, claims 1, 5, 18 and 26 have been amended. Claims 1-29 are currently pending in the present application. Claims 1-21 and 26-29 stand rejected. Claims 22-25 are withdrawn.

### **CLAIM REJECTIONS – 35 U.S.C. § 102**

Claim 26 is rejected under 35 U.S.C. § 102(b) as being anticipated by Bergholz (US 4,479,621).

A § 102 rejection is proper only if each and every element as set forth in the claim is found-i.e., the prior art must teach every aspect of the claim. See *Verdegall Bros. v. Oil Co., of California*. 918 F.2d 628,631 (Fed. Cir. 1987; see also MPEP § 2131).

Bergholz does not teach or suggest all of the elements set forth in claim 26. For example claim 26 recites a combination that includes elements for a “lower cargo deck.” In contrast, Bergholz only describes structure for an upper cargo loading space. Bergholz does not describe the floor structure for a lower cargo deck as set forth in claim 26. Rather Bergholz discloses a very different structure for a lower cargo deck. The Examiner, casually and in passing, alleged that Bergholz’s floor can be used to define a lower cargo deck. However, this unsupported statement is in contrast to the teachings of Bergholz which shows a very different lower cargo deck.

For at least these reasons, claim 26 is not anticipated by Bergholz. Therefore, the Applicant respectfully requests that the rejections of claim 26 under 35 U.S.C. § 102 be removed.

**CLAIM REJECTIONS – 35 U.S.C. § 103**

Claims 26, 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bergholz (US 4,479,621) in view of Huber (US 6,517,028). Claims 1-3, 13, 14-15, 20 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baldwin (US 3,612,316) in view of Micale (US 5,806,797) and/or Powell (US 2004/0237439). Claims 4-7, 12, 18 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baldwin (US 3,612,316) as modified by Micale (US 5,806,797) and/or Powell (US 2004/0237439) as applied to claim 1 above, and further in view of Owen (US 6,061,982). Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baldwin (US 3,612,316) as modified by Micale (US 5,806,797) and/or Powell (US 2004/0237439) as applied to claim 1 above, and further in view of Telair (International DE19712278). Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baldwin (US 3,612,316) as modified by Micale (US 5,806,797) and/or Powell (US 2004/0237439) as applied to claim 1 above, and further in view of Tovani (US 5,827,022). Claims 16 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Baldwin (US 3,612,316) as modified by Micale (US 5,806,797) and/or Powell (US 2004/0237439) as applied to claim 1 above, and further in view of Nordstrom (US 7,410,128). Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bergholz (US 4,479,621) in view of Owen (US 6,061,982) and Huber (US 6,517,028). The Applicant respectfully traverses these rejections.

**I. Independent Claim 1 and corresponding dependent claims**

In our view, the combination of Baldwin, Micale and Powell does neither disclose nor suggest a floor beam “is configured and adapted for connection to a skin of an aircraft at at least three different points of the floor beam: at a first point to a bottom portion of said aircraft, at a second point to a first side portion of said aircraft and at a third point to a second side portion of said aircraft laterally opposite said first side portion” as described in amended claim 1.

Further, we believe that the Examiner rejects claim 1 also because it is unpatentable over combination including Baldwin and Bergholz, in his view. In the last paragraph on page 5 of the Office Action, the Examiner refers to amended claim 1. According to his view, “the floor beam is attached to skin at at least three different points on the floor beam”. In the following figure on the top of page 6 of the Office Action, four different points are marked by the Examiner. Since this figure is taken out of Bergholz and since Baldwin is the most important document in the state of the art, the Examiner also argues with a combination of Baldwin with Bergholz.

In the Office Action, the Examiner rejected independent claim 1, because, in his view, its subject-matter is obvious in view of a combination in Baldwin (US 3.612,316) with Mecale (US 5,806,797) and/or Powell (US 2004/0237439) and Bergholz (US 4,479,621). According to the Examiner, Bergholz shows a floor beam which is connected to the skin of the aircraft at at least three different points of the floor beam.

In our opinion, the person skilled in the art would have not combined Baldwin with Bergholz. In search of a solution for a technical problem for a lower cargo compartment as it is shown in Baldwin, the person skilled in the art would not have

considered Bergholz, since Bergholz only describes an upper loading deck and the described floor has a special design in form of vertically running planar structural members, which are adapted to create space for the lower cargo compartment. The creation of space under the floor of the deck is not necessary for a lower cargo deck, so that the design/support of the floor described in Bergholz is senseless for a lower cargo compartment. Hence, the teachings of Bergholz cannot be transferred to a floor of a cargo compartment as it is described in Baldwin without further ado. Therefore, in our view, the person skilled in the art would have not combined Baldwin with Bergholz.

Furthermore, the floor in Baldwin has lateral connections with the body of the aircraft through which also vertical forces are transferred. In Baldwin, no connection with the bottom part of the aircraft is provided. In the search for an improved load transfer, the person skilled in the art would have not considered Bergholz, since the vertically running planar structure members in Bergholz are called "side support elements" (see abstract: "Vertically running planar structural members provide side support elements for the floor plate") and Baldwin already has side support elements in form of lateral connections with the body of the aircraft.

Even if the person skilled in the art would have combined Baldwin (together with Micale and/or Powell) with Bergholz, the person skilled in the art would not have arrived at the subject-matter of claim 1 of the present application. In our technical understanding, the floor element is not connected to the "bottom part of said aircraft" via the vertically running planar structural members, but the floor element is connected to a side portion/lateral part of the body of the aircraft. The lexicon Merriam-Webster defines the term "bottom" as "the lowest part or place". However, the floor element in Bergholz

is not connected to the lowest part of the airplane but with a side portion/lateral side of the aircraft.

Also, Bergholz does not give any hint to the person skilled in the art to provide a connection with the bottom part of the aircraft, since Bergholz describes that the floor is supported near the edges by the planar structural members (see column 4, lines 64-66, "...that the plates are supported near the side edges by planar structural members running vertical"). These connections near the edges of the floor lead the person skilled in the art away from providing a connection of the "floor beam" to the bottom part of the aircraft, as it is described in claim 1 of the present application.

Therefore, in our opinion, the subject-matter of present claim 1 is based on an inventive step over the cited documents.

## **II. Independent Claims 26-29**

Independent claims 26, 28 and 29 are rejected by the Examiner as allegedly being obvious over Bergholz with Huber (US 6,517,028). The Examiner additionally cites Owen (US 6,061,982) for the reasons that the subject-matter of independent claim 27 is obvious in view of Bergholz and Huber.

According to the Examiner, upper and lower compartments/decks are well known (cf. Huber) and it would have been obvious to one skilled in the art to adapt the floor module/floor element described in Bergholz for a lower cargo compartment. We cannot concur with the Examiner's opinion.

Bergholz shows a very special design/structure for an upper loading deck. In FIG. 2 of Bergholz, the cross section of the floor of the lower cargo compartment is shown, too. The floor of the lower cargo compartment shown in Bergholz has a cross

section very similar to the floor of the lower cargo compartment in Huber. Therefore, the person skilled in the art would not have considered Huber and would not have combined it with Bergholz as there would be no reason to. The Examiner has not shown why one of ordinary skill in the art would have looked to Huber.

The comments concerning the special support design/structure and the special support elements in Bergholz apply to the claims 26 to 29, too. To transfer such a support structure which has been specially designed for the needs of an upper loading deck to a lower cargo compartment would not have been obvious for the person skilled in the art because of the aforementioned reasons. Therefore, the subject-matters of claims 26 to 29 are patentable over cited documents, in our opinion.

### CONCLUSION


The Amendment is believed to overcome the pending rejections. No new matter is added and no new issues are believed to be raised.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is hereby solicited. Any additional fee believed necessary for the consideration of this response is hereby authorized to be charged to Deposit Account No. 50-2036 with regards to Docket No. 59482.21820.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at (202) 861-1655.

Respectfully submitted,

**BAKER & HOSTETLER LLP**



P. Alan Larson  
Registration No. 53,184

Date: **December 30, 2010**  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Tel: (202) 861-1500  
Fax: (202) 861-1783

103614189\_1.DOC